

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

QUENTIN D. BURLEY,

Petitioner,

v.

CIVIL ACTION NO. 5:20-cv-00378

W. HOLZAPFEL, Warden, FCI Beckley,

Respondent.

ORDER

Pending is Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. 1], filed June 1, 2020. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Tinsley filed his PF&R on July 28, 2023. Magistrate Judge Tinsley recommended that the Court dismiss without prejudice Petitioner’s § 2241 Petition, and this civil action, for lack of jurisdiction.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*” (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent


objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were initially due on August 14, 2023. The PF&R was returned as undeliverable and resent to Petitioner on August 18, 2023. Thus, objections were due on September 5, 2023. None were filed. It is Petitioner’s obligation to notify the Court respecting an address change. If objections are received subsequent to this Order, the Court will reconsider the matter on the appropriate showing.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 10**], **DISMISSES WITHOUT PREJUDICE** the Petitioner’s § 2241 Petition [**Doc. 1**], and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: September 6, 2023




Frank W. Volk
United States District Judge